

**REMARKS/ARGUMENTS**

Favorable consideration of this application is respectfully requested. Applicant has amended claims 1, 16-20 and 27 and canceled claim 7 and 25. Favorable reconsideration of this application is, consequently, earnestly solicited in view of the following remarks.

Claims 1-27 were rejected by Examiner under 35 U.S.C. 103 as being unpatentable over Marcous (5,650,604) or Downing et al. (5,963,647) in view of Brody et al. (5,350,906 cited by applicant). Examiner alleges that Marcous and Downing disclose a method for transferring funds to a recipient substantially as claimed in the subject application.

Examiner's obviousness rejection fails for three reasons. While Marcous and Downing disclose and claim systems and methods for electronically transferring funds from a sender to a recipient, the similarity between the subject invention and the cited references ends there. First, both Marcous (col. 5, lines 22-34) and Downing (col. 7, lines 6-15) require a secret code that is established by the sending terminal be communicated to the recipient after the sender has successfully requested the money transfer. Independent claims 1, 16, 18 and 27 do not require a secret code, PIN, transaction confirmation number or other type of code be communicated to the recipient after the transfer request is completed to be used by the recipient to withdraw the transferred funds.

Marcous requires a security code from the sender (col. 5, lines 22-29) and generates a PIN (col. 5, lines 30-34 claims 1-38) or requires use of the sender's security code (claims 39-54) to be used by the recipient to access the transferred funds.

Second, neither Marcous nor Downing withdraw the funds from the sender's account prior to the recipient successfully withdrawing the transferred funds. The claimed invention clearly requires an escrow account for temporarily holding the funds (see claim 1

lines 6-8, claim 16 lines 3-6, claim 18 line 5 and claim 27 line 9) and then automatically transferring the funds from the escrow agent account to the recipient (claim 1, lines 11-15, claim 16 lines 7-10 and claim 27 lines 10-11).

In Marcous the funds are not transferred from the sender's account until after the recipient has received the disbursed funds (col. 7, lines 6-16 and Figs. 1-4). After the recipient receives the funds the sender's account is debited. Downing clearly states that the source account is debited only once the funds have been received by the recipient (col. 7, lines 55-57).

Therefore, the Examiner's belief that the escrow agent and those that receive the disbursements are functionally equivalent to intermediaries is simply not true. For the reasons provided above, Applicant respectfully disagrees with the Examiner's belief and conclusion of equivalency. As defined in Webster's Dictionary, an agent is a person "who acts for or in the place of another". A recipient acts for himself, not for another. Nor is disbursement to the recipient an escrow which is defined as funds "held in trust by a third party to be turned over to" the recipient. A copy of the definitions from Webster's Dictionary, Ninth Edition, are attached herewith.

For these reasons, neither Marcous nor Downing discloses money transfer methods substantially as claimed in the subject application. Adding Brody to either Marcous or Downing does not overcome the deficiencies in Marcous and Downing.

The prior art cited by the Examiner, taken either singularly or in combination, fails to anticipate or fairly suggest the limitations of the independent claims 1, 16 and 18, in such a manner that a rejection under 35 U.S.C. 103 would be proper. The prior art fails to teach a combination of all the claimed features presented in independent claims 1, 16 and 18, for

example, which include transferring funds from a sender to an escrow agent for disbursement by the escrow agent to a recipient without the requirement of the recipient using a secret code provided by the sender.

Examiner continues the functional equivalency of the escrow agent to include networks controlling ATMs as described in Brody. Brody, like Marcous and Downing, requires a PIN be communicated to the recipient for use in accessing the transferred funds (col. 7 lines 14-16, col. 8 lines 67-68, col. 11 lines 61-62 and claims 1-6).

The mere fact that the cited references include transferring funds between a sender and a recipient is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason for someone of ordinary skill in the art, without the benefit of the inventor's specification, to make the necessary changes in the reference device, i.e., transfer funds from the sender's account to a third party escrow account for the benefit of a third party, the recipient. Furthermore, all three cited references require a secret code or PIN be communicated by the sender to the recipient for use in accessing the funds in the escrow account. The subject application allows the recipient to withdraw the funds from the escrow account without the requirement for a secret code or PIN provided by the sender to the recipient.

There is no teaching, nor suggestion for modifying Marcous or Downing to include all the novel features of claims 1, 16, 18 and claim 27. Under well recognized rules of the MPEP (for example, section 706.02(j)), the teaching or suggestion to make the claimed combination, Examiner's functional equivalence belief, and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. For the

reasons provided, Applicant requests the removal of the section 103 rejection in regard to claims 1-27.

Examiner rejects each claim individually. Claims 1-3, 9-11, 16, 18 and 27 were all rejected based on Examiner's belief that the escrow agent and the recipient are functionally equivalent to intermediaries (network controlling ATM). Applicant has amended claims 1, 16, 18 and 27 to further clarify that the escrow agent is not the recipient. Claims 1 and 27 have been further amended to include the limitation that a code is not required to be provided by the sender for use by the recipient in requesting disbursement of the transferred funds. Claim 16 recites that the sender's funds are held by an escrow agent, then the funds are transferred from the escrow agent to an ATM. Clearly the escrow agent is not the ATM. Applicant has amended claim 16 to clarify that the escrow agent is not the recipient. For the reasons provided, Applicant believes that claims 1-3, 9-11, 16, 18 and 27 are allowable and thus, requests removal of the rejections.

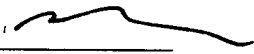
Examiner rejected the card limitations of claims 6-8, 12-15, 17, 19 and 23-26 citing Brody (col. 1 lines 30-50) which shows ATM currency transfer employing magnetic cards which are functionally equivalent to the claimed limitations. Claim 7 has been canceled and claim 19 has been amended to reflect the changes made to amended claim 18. Although Brody and dependent claims 6, 8, 12-15, 17, 19 and 23-26 recite use of magnetic cards, these dependent claims depend from independent claims 1, 16 and 18. For the reasons provided in regard to claims 1, 16 and 18, Applicant believes that dependent claims 6, 8, 12-15, 17, 19 and 23-26 are allowable and requests removal of the rejection.

Claims 4, 5 and 20-22 were rejected alleging that the Brody shows POS and ATM currency transfer which are functional equivalents of the claimed invention. However,

neither Marcous nor Downing teach, suggest or provide motivation for using an intermediary. Although Brody discloses a method for transferring funds from a sender to the sponsor for later disbursement to the recipient, Marcous and Downing specifically describe and claim disbursement to the recipient prior to removal (debit) of the funds from the sender. An obviousness rejection requires a teaching to make the modification. There is no teaching, suggestion or even a hint of combining Brody with either Marcous or Downing. Claim 20 has been amended to reflect the changes made to amended claim 18. For these reasons, and for the reasons provided in regard to claims 1-3, 9-11, 16, 18 and 27, Applicant believes that claims 4, 5 and 20-22 are allowable and thus, requests removal of the rejections.

In view of the foregoing considerations, it is respectfully urged that claims 1-6, 8-24 and 26-27 be allowed. Such action is respectfully requested. If the Examiner believes that an interview would be helpful, the Examiner is requested to contact the attorney at the below listed number.

Respectfully Submitted;

  
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Date

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